

JS 44 (Rev. 06/17)

## CIVIL COVER SHEET

18-cv-1395

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

CLARION COLE

(b) County of Residence of First Listed Plaintiff HINDS  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Octavio Gomez, 201 N Franklin Street, Tampa, Florida, 33602  
Telephone: (813) 223-5505

## DEFENDANTS

EGS FINANCIAL CARE, INC.

18

1395

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 USC 227, 15 U.S.C. 1692(d)

Brief description of cause:

TCPA, FDCPA

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

APR - 3 2018

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/03/2018

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**BMS**

## UNITED STATES DISTRICT COURT

**18 1395**

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 525 Sharon Hills Dr, Jackson, MS 39212Address of Defendant: c/o 2595 Interstate Drive, Suite 103, Harrisburg, PA 19044Place of Accident, Incident or Transaction: Hinds, Mississippi

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

## A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) TCPA, FDCPA

## B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

## ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.# \_\_\_\_\_

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/03/2018

Attorney-at-Law

325066

Attorney I.D.# \_\_\_\_\_

APR - 3 2018

**BMS**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

CLARION COLE,

v.

EGS FINANCIAL CARE, INC.,

CIVIL ACTION

NO. **18 1395**


In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

04/03/2018

Date

  
 Attorney-at-law

Clarion Cole

Attorney for

(813) 223- 5505

Telephone

(813) 222- 4725

FAX Number

TGomez@ForThePeople.com

E-Mail Address

(Civ. 660) 10/02

APR - 3 2018

# MORGAN & MORGAN®

*Attorneys At Law*

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ONE TAMPA CITY CENTER  
TAMPA, FL 33602  
(813) 223-5505  
FAX: (813) 223-5402

March 29, 2018



★ 8 2 4 2 8 0 9 ★  
Eastern District of Pennsylvania  
2609 U.S. Courthouse  
601 Market Street  
Philadelphia, 19106-1797

**RE: Cole, Clarion v EGS Financial Care**

Dear Sir or Madam:

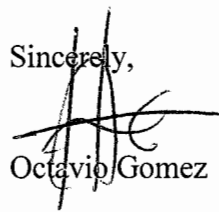
Enclosed please find the following:

Civil Cover Sheet  
Complaint & Exhibit A  
Summons(es)  
CD Containing the Above  
Self-addressed stamped envelope

Please find the above listed documents and issue the Summons. I have included my firm check in the amount of \$400.00 which represents your filing fee. Once issued, please return the Summons(es) to my office in the self addressed stamped envelope enclosed.

Thank you in advance for your assistance in this matter. Should you have any questions, please feel free to contact either myself or my paralegal, Jennifer Sherwood.

Sincerely,

  
Octavio Gomez

OTG/cr

[www.forthethepeople.com](http://www.forthethepeople.com)



4400 BMS

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA  
PHILADELPHIA DIVISION

CLARION COLE,

Plaintiff,

CASE NO.:

**18 1395**

-v-

EGS FINANCIAL CARE, INC,

Defendant.

**COMPLAINT AND DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff, CLARION COLE, by and through the undersigned counsel, and sues Defendant, EGS FINANCIAL CARE, INC., and in support thereof respectfully alleges violations of the Telephone Consumer Protection Act, 47 U.S.C. §227 *et seq.* ("TCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et. seq.* ("FDCPA").

**INTRODUCTION**

1. The TCPA was enacted to prevent companies like EGS FINANCIAL CARE, INC. from invading American citizen's privacy and prevent abusive "robo-calls."

2. "The TCPA is designed to protect individual consumers from receiving intrusive and unwanted telephone calls." *Mims v. Arrow Fin. Servs., LLC*, -US--, 132 S.Ct. 740, 745, 181 L.Ed. 2d 881 (2012).

3. "Senator Hollings, the TCPA's sponsor, described these calls as 'the scourge of modern civilization, they wake us up in the morning; they interrupt our dinner at night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone out of the wall.' 137 Cong. Rec. 30, 821 (1991). Senator Hollings presumably intended to give telephone

subscribers another option: telling the auto-dialers to simply stop calling.” *Osorio v. State Farm Bank, F.S.B.*, 746 F.3d 1242, 1256 (11<sup>th</sup> Cir. 2014).

4. According to the Federal Communications Commission (FCC), “Unwanted calls and texts are the number one complaint to the FCC. There are thousands of complaints to the FCC every month on both telemarketing and robocalls. The FCC received more than 215,000 TCPA complaints in 2014.” <https://www.fcc.gov/document/fact-sheet-consumer-protection-proposal>.

#### **JURISDICTION AND VENUE**

5. This is an action for damages exceeding Seventy-Five Thousand Dollars (\$75,000.00) exclusive of attorney fees and costs.

6. Jurisdiction and venue for purposes of this action are appropriate and conferred by 28 U.S.C. § 1331, Federal Question Jurisdiction, as this action involves violations of the TCPA.

7. Subject matter jurisdiction, federal question jurisdiction, for purposes of this action is appropriate and conferred by 28 U.S.C. § 1331, which provides that the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States; and this action involves violations of 47 U.S.C. § 227(b)(1)(A)(iii). See *Mims v. Arrow Fin. Servs., LLC*, S.Ct. 740, 748 (2012) and *Osorio v. State Farm Bank, F.S.B.*, 746 F.3d 1242, 1249 (11<sup>th</sup> Cir. 2014)

8. The Defendant is located in Montgomery County, Pennsylvania. Accordingly, venue is appropriate with this Court under 28 U.S.C. §1391(b)(1), as it is the judicial district in which the Defendant resides.

#### **FACTUAL ALLEGATIONS**

9. Plaintiff is a natural person, and citizen of the State of Mississippi, residing in Hinds County, Mississippi.

10. Plaintiff is a “consumer” as defined in 15 U.S.C. § 1692(a)(3).

11. Plaintiff is an “alleged debtor.”

12. Plaintiff is the “called party.” See *Breslow v. Wells Fargo Bank, N.A.*, 755 F. 3d 1265 (11<sup>th</sup> Cir. 2014) and *Osorio v. State Farm Bank, F.S.B.*, 746 F. 3d 1242 (11<sup>th</sup> Cir. 2014).

13. Defendant, EGS FINANCIAL CARE, INC., is a corporation which was formed in Pennsylvania with its principal place of business located at Horsham Corporate Center, 400 Horsham Boulevard, Suite 130, Horsham, Pennsylvania 19044 and which conducts business in the State of Pennsylvania through its registered agent, Corporation Service Company located at 2595 Interstate Drive, Suite 103, Harrisburg, Pennsylvania 17110.

14. EGS FINANCIAL CARE, INC. called Plaintiff on Plaintiff’s cellular telephone approximately one-hundred (100) times in an attempt to collect a debt.

15. EGS FINANCIAL CARE, INC. attempted to collect an alleged debt from the Plaintiff by this campaign of telephone calls.

16. EGS FINANCIAL CARE, INC. intentionally harassed and abused Plaintiff on numerous occasions by calling several times during one day, and on back to back days, with such frequency as can reasonably be expected to harass.

17. Upon information and belief, some or all of the calls the Defendant made to Plaintiff’s cellular telephone number were made using an “automatic telephone dialing system” which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator (including but not limited to a predictive dialer) or an artificial or prerecorded voice; and to dial such numbers as specified by 47 U.S.C § 227(a)(1) (hereinafter

“auto-dialer calls”). Plaintiff will testify that she knew it was an auto-dialer because of the vast number of calls she received and because she heard a pause when she answered her phone before a voice came on the line and/or she received prerecorded messages before a voice came on the line from EGS FINANCIAL CARE, INC..

18. Plaintiff is the subscriber, regular user and carrier of the cellular telephone number (769) \*\*\*-8800, and was the called party and recipient of Defendant’s calls.

19. EGS FINANCIAL CARE, INC. placed an exorbitant number of automated calls to Plaintiff’s cellular telephone (769) \*\*\*-8800 in an attempt to collect on a credit card debt.

20. Upon receipt of the calls from Defendant, Plaintiff’s caller ID identified the calls were being initiated from, but not limited to, the following telephone numbers: (903) 209-2635, (903) 209-2637, (430) 775-1070, (430) 775-1072, (430) 775-1073, (623) 404-6948, (480) 935-6828, (215) 440-6677, (304) 820-0735, (412) 694-1902, (334) 310-6203, (334) 310-6205, and (430) 775-1074.

21. On several occasions over the last four (4) years, Plaintiff instructed EGS FINANCIAL CARE, INC.’s agents to stop calling her cellular telephone.

22. In or about December 2017, and on many other occasions Plaintiff answered a call to her aforementioned cellular telephone number. Plaintiff was connected to an agent/representative of Defendant and informed the agent/representative to please stop calling her cellular telephone and that this was harassment.

23. In or about February 2018, and on many other occasions Plaintiff answered a call to her aforementioned cellular telephone number. Plaintiff was connected to an agent/representative of Defendant and informed the agent/representative to please stop calling her.



24. Due to the tremendous volume of calls Plaintiff received over a lengthy period of time; she was not able to properly catalogue each and every call. However, attached hereto as **Exhibit A** is a small sampling of some of the automated calls Plaintiff received to her cellular telephone from Defendant.

25. EGS FINANCIAL CARE, INC. has a corporate policy to use an automatic telephone dialing system or a pre-recorded or artificial voice to individuals just as it did to the Plaintiff's cellular telephone in this case.

26. EGS FINANCIAL CARE, INC. has a corporate policy to use an automatic telephone dialing system or a pre-recorded or artificial voice, just as it did to the Plaintiff's cellular telephone in this case, with no way for the consumer, or EGS FINANCIAL CARE, INC., to remove the number.

27. EGS FINANCIAL CARE, INC.'s corporate policy is structured as to continue to call individuals like the Plaintiff, despite these individuals explaining to EGS FINANCIAL CARE, INC. they wish for the calls to stop.

28. EGS FINANCIAL CARE, INC. has numerous other federal lawsuits pending against them alleging similar violations as stated in this Complaint.

29. EGS FINANCIAL CARE, INC. has numerous complaints against them across the country asserting that their automatic telephone dialing system continues to call despite being requested to stop.

30. EGS FINANCIAL CARE, INC. has had numerous complaints from consumers against them across the country asking to not be called, however the Defendant continues to call the consumers.

31. EGS FINANCIAL CARE, INC.'s corporate policy provided no means for the Plaintiff to have her number removed from the call list.

32. EGS FINANCIAL CARE, INC. has a corporate policy to harass and abuse individuals despite actual knowledge that the called parties do not wish to be called.

33. None of EGS FINANCIAL CARE, INC.'s telephone calls placed to Plaintiff were for "emergency purposes" as specified in 47 U.S.C. §227(b)(1)(A).

34. EGS FINANCIAL CARE, INC. willfully and knowingly violated the TCPA with respect to the Plaintiff.

35. From each and every call placed without express consent by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone, Plaintiff suffered the injury of invasion of privacy and the intrusion upon her right of seclusion.

36. From each and every call without express consent placed by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone, Plaintiff suffered the injury of the occupation of her cellular telephone line and cellular telephone by unwelcome calls, making the telephone unavailable for legitimate callers or outgoing calls while the telephone was ringing from EGS FINANCIAL CARE, INC.'s call.

37. From each and every call placed without express consent by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone, Plaintiff suffered the injury of unnecessary expenditure of her time. For calls she answered, the time she spent on the call was unnecessary as she had repeatedly asked for the calls to stop. Even for unanswered calls, Plaintiff had to waste time to unlock the telephone and deal with missed call notifications and call logs that reflected the unwanted calls. This also impaired the usefulness of these features of Plaintiff's cellular telephone, which are designed to inform the user of important missed communications.

38. Each and every call placed without express consent by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone was an injury in the form of a nuisance and annoyance to Plaintiff. For calls that were answered, Plaintiff had to go to the unnecessary trouble of answering them. Even for unanswered calls, Plaintiff had to waste time to unlock the telephone and deal with missed call notifications and call logs that reflected the unwanted calls. This also impaired the usefulness of these features of Plaintiff's cellular telephone, which are designed to inform the user of important missed communications.

39. Each and every call placed without express consent by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone resulted in the injury of unnecessary expenditure of Plaintiff's cellular telephone's battery power.

40. Each and every call placed without express consent by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone where a voice message was left which occupied space in Plaintiff's telephone or network.

41. Each and every call placed without express consent by EGS FINANCIAL CARE, INC. to Plaintiff's cellular telephone resulted in the injury of a trespass to Plaintiff's chattel, namely her cellular telephone and her cellular telephone services.

42. As a result of the calls described above, Plaintiff suffered an invasion of privacy. Plaintiff was also affect in a personal and individualized way by raising her blood pressure, embarrassment, and anxiety.

**COUNT I**  
**(Violation of the TCPA)**

43. Plaintiff fully incorporates and re-alleges paragraphs one (1) through forty-two (42) as if fully set forth herein.

44. EGS FINANCIAL CARE, INC. willfully violated the TCPA with respect to the Plaintiff, especially for each of the auto-dialer calls made to Plaintiff's cellular telephone after Plaintiff notified EGS FINANCIAL CARE, INC. that she wished for the calls to stop.

45. EGS FINANCIAL CARE, INC. repeatedly placed non-emergency telephone calls to Plaintiff's cellular telephone using an automatic telephone dialing system or prerecorded or artificial voice without Plaintiff's prior express consent in violation of federal law, including 47 U.S.C § 227(b)(1)(A)(iii).

**WHEREFORE**, Plaintiff respectfully demands a trial by jury on all issues so triable and judgment against EGS FINANCIAL CARE, INC. for statutory damages, punitive damages, actual damages, treble damages, enjoinder from further violations of these parts and any other such relief the court may deem just and proper.

**COUNT II**  
**(Violation of the FDCPA)**

46. Plaintiff fully incorporates and re-alleges paragraphs one (1) through forty-two (42) as if fully set forth herein.

47. At all times relevant to this action EGS FINANCIAL CARE, INC. is subject to and must abide by 15 U.S.C. § 1692 *et seq.*

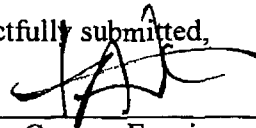
48. EGS FINANCIAL CARE, INC. has violated 15 U.S.C. § 1692(d) by willfully engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

49. EGS FINANCIAL CARE, INC. has violated 15 U.S.C. § 1692(d)(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

50. EGS FINANCIAL CARE, INC. has violated 15 U.S.C. § 1692(f) by using unfair and unconscionable means to collect or attempt to collect any debt.

**WHEREFORE**, Plaintiff respectfully demands a trial by jury on all issues so triable and judgment against EGS FINANCIAL CARE, INC. for statutory damages, punitive damages, actual damages, costs, interest, attorney fees, enjoinder from further violations of these parts and any other such relief the court may deem just and proper.

Respectfully submitted,



---

Octavio Gomez, Esquire  
Pennsylvania Bar No.:  
325066  
Morgan & Morgan, Tampa, P.A.  
One Tampa City Center  
201 North Franklin Street, 7th Floor  
Tampa, Florida 33602  
Telephone: (813) 223-5505  
Facsimile: (813) 223-5402  
Primary Email: TGomez@ForThePeople.com  
Secondary Email: JSherwood@ForThePeople.com  
*Attorney for Plaintiff*



Octavio Gomez

**Call Log for (769) \*\*\*- 8800**

<b><u>Date of Call:</u></b>	<b><u>Time of Call:</u></b>	<b><u>Phone Number:</u></b>
02/02/2018	9:22AM	(903) 209- 2637
02/02/2018	10:03AM	(903) 209- 2637
02/02/2018	1:23PM	(903) 209- 2637
02/02/2018	4:28PM	(903) 209- 2637
02/03/2018	9:00AM	(430) 775- 1070
02/03/2018	11:36AM	(430) 775- 1070
02/03/2018	2:55PM	(430) 775- 1070
02/03/2018	6:02PM	(430) 775- 1070
02/05/2018	9:08AM	(430) 775- 1072
02/05/2018	9:59AM	(430) 775- 1072
02/05/2018	1:13PM	(430) 775- 1072
02/05/2018	2:35PM	(430) 775- 1072
02/05/2018	5:45PM	(430) 775- 1072
02/06/2018	9:01AM	(430) 775- 1073
02/06/2018	10:29AM	(430) 775- 1073
02/06/2018	12:58PM	(430) 775- 1073
02/06/2018	2:29AM	(430) 775- 1073
02/06/2018	6:57PM	(430) 775- 1073
02/07/2018	9:13AM	(430) 775- 1074
02/07/2018	12:59PM	(430) 775- 1074
02/07/2018	3:03PM	(430) 775- 1074
02/07/2018	4:24PM	(430) 775- 1074
02/08/2018	11:24AM	(334) 310- 6205
02/08/2018	1:15PM	(334) 310- 6205
02/08/2018	3:44PM	(334) 310- 6205
02/08/2018	6:07PM	(334) 310- 6205
02/09/2018	9:32AM	(334) 310- 6203
02/09/2018	12:40PM	(412) 694- 1902
02/09/2018	4:19PM	(304) 820- 0735
02/09/2018	5:54PM	(215) 440- 6677
02/10/2018	9:50AM	(480) 935- 6828
02/10/2018	12:47PM	(251) 587-6105
02/10/2018	3:22PM	(623) 404- 6948